UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,258	12/05/2003	Dan Bradley O'Bryan	SPRI.111309	1160

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SPRINT COMMUNICATIONS COMPANY L.P.	CHOU, ANDREW Y	
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SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

		Application No.	Applicant(s)
Office Action Summary		10/729,258	O'BRYAN ET AL.
		Examiner	Art Unit	
		Andrew Y. Chou	2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05 December 2003</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-26</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-26</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _____ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-SB/08)
    Paper No(s)/Mail Date <u>03/22/2004</u>.

4)☐ Interview Summary (PTO-413)
    · Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-26 have been examined. Claims 1, 15, and 21 are independent claims.

The priority date recognized for this application is 12/05/2003.

Information Disclosure Statement

2.   The Office acknowledges receipt of the Information Disclosure Statement filed on

03/22/2004. It has been placed in the application file and the information referred to

therein has been considered by the examiner.

Oath/Declaration

3.   The Office acknowledges receipt of a properly signed oath/declaration filed on

04/29/2004.

Claim Rejections - 35 USC § 101

4.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

5.   Claims 15-18, 20, and 21-24 are rejected under 35 U.S.C. 101 because the

claimed invention is directed to non-statutory subject matter.

Claims 15-18 and 20 recite a computer program product. Computer programs

claimed as computer listings (non-functional) per se, i.e., the descriptions or

expressions of the programs, are not physical "things." They are neither computer

components nor statutory processes, as they are not "acts" being performed. Such

claimed computer programs do not define any structural and functional

interrelationships between the computer program and other claimed elements of a

computer which permit the computer program's functionality to be realized. In contrast,

a claimed computer-readable medium encoded with a computer program is a computer

element which defines structural and functional interrelationships between the computer

program and the rest of the computer which permit the computer program's functionality

to be realized, and is thus statutory.

Claims 21-24 are rejected under 35 U.S.C. 101 because the language of claims

21-24 recite a non-functional result. See MPEP 2106.01

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7.   Claims 1-11 are rejected under 35 U.S.C 102(b) as being anticipated by Boehm

et al. US 6,457,170 B1 (hereinafter Boehm).

Claim 1:

Boehm discloses a method of building an application having one or more versions, said

method including the steps of:

provided a first computing device (see for example FIG. 1, item 10, "workstation"

and related text);

providing a second computing device having a controlling process for an

environment said environment having parameters, said controlling process managing at

least one group of servers in said environment (see for example FIG. 1, item 30,

"Network Controller", and related text) ;

selecting at least one file directed to a particular version of said application from

said one or more versions using said first computing device for the purpose of building

the particular version of the application on said second computing device (see for

example FIG. 6, step 218, and related text);

deleting said at least one group of servers which are associated with the

application using said controlling process (see for example FIG. 9, step 468, and related

text);

creating at least one new server group in the environment (see for example FIG.

2, step 100, and related text); and

building said particular version of said application on said second computing

device (see for example FIG. 2, step 300, and related text).

Claim 2:

Boehm further discloses the method of claim 1 wherein said deleting step comprises the additional step of:

including as said at least one file an environmental-configuration file which includes a plurality of environmental configurations for the parameters of the controlling process environment (see for example column 5, lines 30-43, "software configuration controller").

Claim 3:

Boehm further discloses the method of claim 2 including the step of:

using said environmental-configuration file to message the controller to accomplish the deleting step (see for example column 5, lines 30-43, FIG. 9, step 468, and related text).

Claim 4:

Boehm further discloses the method of claim 2 including the step of:

including scripts within said environmental-configuration file (see for example column 5, lines 30-43);

using said scripts to message the controller to accomplish the deleting step (see for example column 5, lines 30-43).

Claim 5:

Boehm further discloses the method of claim 4 comprising the additional step of:

using said scripts to configure new server groups in the environment (see for example column 7, line 56- column 8, line 10).

Claim 6:

Boehm further discloses the method of claim 4 comprising the additional step of :

providing a command interface for enabling said scripts to message said

controller (see for example FIG. 3, and related text).

Claim 7:

The method of claim 6 comprising:

selecting Pathcom as the command interface which is provided for enabling said scripts

to message said controller (see for example FIG. 3, and related text).

Claim 8:

Boehm further discloses the method of claim 1 comprising:

providing a scheduler (see for example FIG. 4, step 100, and related text);

creating a build schedule using said scheduler (see for example FIG. 4, step 202,

and related text);

repeating the selecting, deleting, and building steps according to said build

schedule (see for example FIG. 4, and related text).

Claim 9:

Boehm further discloses the method of claim 8 including the step of:

creating said build schedule such that the selecting locating, deleting, and

building steps to occur daily (see for example FIG. 4, and related text).

Claim 10:

Boehm further discloses the method of claim 1 comprising:

enabling the selecting locating, deleting, and building steps to occur on-demand

(see for example FIG. 4, and related text).

Claim 11:

Boehm further discloses the method of claim 1 including the additional steps of:

checking said particular version of said application into a version control system (see for

example FIG. 6, step 214, and related text);

associating the particular version with a tag (see for example FIG. 6);

referencing said particular version in a version control system using said tag in order to

accomplish said selecting step (see for example FIG. 6, and related text).

8.   Claims 15-26 are rejected under 35 U.S.C 102(b) as being anticipated by

Obilisetty US 2004/0268344 A1 (hereinafter Obilisetty).

Claim 15:

Obilisetty discloses a computer program product on a first computing device adapted for

execution on a second computing device (see for example Figure 2, items 190a, 190b,

and related text), comprising:

a first file (see for example Figure 3A, item 310, and related text);

a second file (see for example Figure3A, item 320, and related text);

said first file including substantially only the configurations of the application that are not

environment specific (see for example Figure 4, and related text);

said second file including substantially only the configurations of the application which

are environmental specific (see for example Figure 4, and related text).

Claim 16:

Obilisetty further discloses the application of claim 15 in which said first and second files

are XML files (see for example Figure 3A, items 310, 320, and related text).

Claim 17:

Obilisetty further discloses the application of claim 15 in which the second file further

comprises:

a label for identifying an environment into which the application is to be run (see for

example page 5, [0051]);

a group of environmental parameters which are specific to the environment, but not

specific to the application (see for example Figure 3C, and related text); and

a group of application parameters which are specific to the environment (see for

example page 5, [0051]).

Claim 18:

Obilisetty further discloses the application of claim 17 in which said second file further

comprises: a number of parameters specific to at least one server (see for example

Figure 3A, and related text).

Claim 19:

Obilisetty further discloses the application of claim 18, further comprising: a set of

scripts that accept the first and second files as inputs to create output files that are

useable in the second computing device (see for example Figure 3A, item 205, and

related text).

Claim 20:

Obilisetty further discloses the application of claim 15 in which the environmental

requirements of an environment in the second computing device may be configured by

editing said second file in said first computing device making the application dynamically

adaptable to multiple environments in the second computing device (see for example

Figure 5, steps 530, 540, and related text).

Claim 21:

Obilisetty discloses one or more computer-readable media (see for example Figure 1,

and related text) having computer-executable instructions embodied thereon for

performing a method of building an application on a computing device, said method

comprising:

providing a first file (see for example Figure 3A, item 310, and related text);

providing a second file (see for example Figure3A, item 320, and related text);

including in said first file substantially only the configurations of the application that are

not environment specific (see for example Figure 4, and related text);

including in said second file substantially only the configurations of the application which

are environmental specific (see for example Figure 4, and related text).

Claim 22:

Obilisetty further discloses the method of claim 21, further comprising:

creating said first and second files in XML (see for example Figure 3A, items 310, 320,

and related text).

Claim 23:

Obilisetty further discloses the method of claim 22, further comprising:

identifying an environment into which the application is to be run using a label (see for

example page 5, [0051]);

including a group of environmental parameters in said second file which are specific to

the environment, but not specific to the application (see for example Figure 3C, and

related text); and

including a group of application parameters in said second file which are specific to the

environment (see for example page 5, [0051]).

Claim 24:

Obilisetty further discloses the method of claim 23, further comprising:

including a number of parameters specific to at least one server in said second file (see

for example page 5, [0051]).

Claim 25:

Obilisetty further discloses the method of claim 24, further comprising:

including in said second file a script that accepts the first and second files as inputs to

create output files that are useable in the second computing device (see for example

Figure 4, and related text).

Claim 26:

Obilisetty further discloses the method of claim 21, comprising:

dynamically adapting the computing device by editing said second file application to

multiple environments in said second file (see for example page 5, [0051]).

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

10.   Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Boehm et al. US 6,457,170 B1 (hereinafter Boehm) in view of Obilisetty US

2004/0268344 A1 (hereinafter Obilisetty).

Claim 12:

Boehm does not disclose the method of claim 1 comprising:

including in said particular version of the application an environmental- configuration

containing XML file. However, Obilisetty in the same analogous art of distributing

applications to computer systems discloses a method comprising: including in said

particular version of the application an environmental- configuration containing XML file

(see for example Figure 3A, item 310, and related text). Therefore, at the time the

invention was made it would have been obvious to a person of ordinary skill in the art to

modify the teachings of Boehm to include such a method as disclosed above by

Obilisetty. One would be motivated to do so to take advantage of the additional

functionality provided by the method taught in Obilisetty to further enhance the system

disclosed in Boehm (see for example Obilisetty page 5, [0048]).

Claim 13:

Boehm does not disclose the method of claim 12 comprising:

including in said particular version of the application an object-XML file. However,

Obilisetty in the same analogous art of distributing applications to computer systems

discloses a method comprising: including in said particular version of the application an

environmental- configuration containing XML file (see for example Figure 3A, item 310,

and related text). Therefore, at the time the invention was made it would have been

obvious to a person of ordinary skill in the art to modify the teachings of Boehm to

include such a method as disclosed above by Obilisetty. One would be motivated to do

so to take advantage of the additional functionality provided by the method taught in

Obilisetty to further enhance the system disclosed in Boehm (see for example Obilisetty

page 5, [0048]).

Claim 14:

Boehm does not disclose the method of claim 13 comprising:

including with said particular version of said application a plurality of XSL files. However,

Obilisetty in the same analogous art of distributing applications to computer systems

discloses a method comprising: including in said particular version of the application an

environmental- configuration containing XML file (see for example Figure 3A, item 310,

and related text). Therefore, at the time the invention was made it would have been

obvious to a person of ordinary skill in the art to modify the teachings of Boehm to

include such a method as disclosed above by Obilisetty. One would be motivated to do

so to take advantage of the additional functionality provided by the method taught in

Obilisetty to further enhance the system disclosed in Boehm (see for example Obilisetty

page 5, [0048]).

Conclusion

11.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Andrew Y. Chou whose telephone number is (571) 272-

6829. The examiner can normally be reached on Monday-Friday, 8:00 am – 4:30 pm. If

attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tuan Q. Dam, can be reached on (571) 272-3695.

The fax phone number for the organization where this application or proceeding

is assigned is (571) 273 8300.

Any inquiry of a general nature of relating to the status of this application or

proceeding should be directed tot eh TC 2100 Group receptionist whose telephone

number is (571) 272 2100.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll free).

AYC

TUAN DAM
SUPERVISORY PATENT EXAMINER